

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OWEN W. BARNABY,

Plaintiff,

Hon. Robert J. Jonker

v.

Case No. 1:22-cv-1146

MICHIGAN STATE GOVERNMENT,

et al.,

Defendants.

ORDER

The Court has before it Plaintiff's January 31, 2024 Motion (ECF No. 126), docketed as a motion to expedite. The motion requests an order for the following relief: (1) an extension of time to respond to the pending motions to dismiss filed by the State of Michigan Defendants (ECF No. 116) and the City of Benton Harbor (ECF No. 121); (2) leaving summary judgment options in place; (3) allowing Plaintiff to amend his affidavit; and (4) applying the 45-day period for service from the December 27, 2023 Order (ECF No. 91) to the summonses issued on January 23, 2024 to the judicial Defendants (ECF No. 115) and extending the time for service on the other non-served Defendants.

First, the request to delay Plaintiff's time to respond to the pending motions to dismiss until 28 days after the Sixth Circuit decides Plaintiff's recently-filed interlocutory appeal is **DENIED**. However, the Court will grant a brief, reasonable extension. Plaintiff shall respond to the pending motions (ECF Nos. 116 and 121) no later than **March 11, 2024**.

Second, what Plaintiff seeks by his request to leave "summary judgment options in place" is not entirely clear. However, he states that because the Niles Charter Township Defendants are in default, he may elect to file a motion for summary judgment against them. Because, for the

reasons previously set forth in this matter, the Township Defendants are not in default, this request is **DENIED**.

Third, Plaintiff's request to amend his previously-filed affidavit (ECF No. 76) to increase the amount of his requested default judgment is **DENIED**, as Plaintiff has failed to demonstrate that any Defendant is in default.

Last, Plaintiff's request that the Court extend the time for him to serve the unserved Defendants (Berrien County Defendants and Holmstrom Defendants) to 28 days after the Sixth Circuit decides his interlocutory appeal is **DENIED**. As to Plaintiff's request to apply the 45 days for service to the judicial Defendants, Plaintiff has 90 days from the date the Third Amended Complaint was filed—December 27, 2023—to effect service. *See* Fed. R. Civ. P. 4(m).

IT IS SO ORDERED.

Dated: February 2, 2024

/s/ Sally J. Berens
SALLY J. BERENS
U.S. Magistrate Judge